(1) (3)

समक्ष माननीय मध्यप्रदेश प्रशासनिक अधिकरण खण्डपीठ रायपुर छ.ग.

ओ.ए.क्रमांक ...../2002

आवेदिका : कु.वहीदा बानो खान
विवाह उपरान्त श्रीमति वनिता मुदलियार
पति श्री एस.एन.मुदलियार
सहायक शिक्षिका, आयु 45 वर्ष
पता डॉक्टर कालोनी, माना केम्प, रायपुर

विरूद्ध

अनावेदकगण :

1. छत्तीसगढ शासन
   द्वारा सचिव
   स्कूल शिक्षा विभाग
   मंत्रालय डी.के.एस.भवन, रायपुर छ.ग.
2. संचालक
   लोक शिक्षण
   संचालनालय रायपुर छ.ग.
3. जिला शिक्षा अधिकारी
   रायपुर छ.ग.

आवेदन पत्र अंतर्गत धारा 19, म.प्र. प्रशासनिक अधिकरण 1985

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No.4586 of 2005

Petitioner : Ku. Wahida Bano Khan (after marriage known as Smt. Vanita Mudliyar)

Versus

Respondents : State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri Anil Singh Rajput, Advocate for the Petitioner.
Smt. Anju Ahuja, Govt. Advocate for the State/respondents.

O R D E R

(31st October, 2006)

1. The petitioner is working as Assistant Teacher in the government schools. In the course of their services as Assistant Teacher, the petitioner has obtained B. T.I. examination certificate on her own expenses before 1.3.1999.

2. According to learned counsel for the petitioner, the petitioner is entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed./B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 issued by the State Government of Madhya Pradesh.

3. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B. Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A. No. 1632/99, decided on 12.10.1999 wherein it is observed that the

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circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B. Ed. degree before 1.3.1999 is entitled to two advance increments.

4. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B. Ed. examination certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

5. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

6. Accordingly, the writ petition is allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B.T.I. Examination Certificate on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Subhash